

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

JOHN P. HOLGUIN,

Plaintiff,

v.

Case No. _____

THE STANDARD LIFE
INSURANCE COMPANY OF
NEW YORK,

Defendant.

NOTICE OF REMOVAL

Defendant The Standard Life Insurance Company of New York removes this action from the Second Judicial District Court, Bernalillo County, New Mexico in accordance with 28 U.S.C. §§ 1331, 1441, and 1446; 29 U.S.C. § 1132(e) and (f); and D.N.M. LR-Civ. 81.1.

SUBJECT MATTER JURISDICTION UNDER ERISA

1. The plaintiff alleges that the action arises under the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, *et seq.* (“ERISA”). (Compl. at ¶ 1.) The Complaint alleges ERISA claims and seeks relief under ERISA. (Compl. at ¶¶ 21-29, 32-33.) Inexplicably, however, the plaintiff also alleges that the matter is not governed by ERISA and seeks state law remedies. (Compl. at ¶¶ 5, 18-20, 31, 33.) The matter is, in fact, ERISA governed because it arises out of an employee welfare benefit plan.

2. Specifically, the case involves a dispute over long-term disability insurance benefits. (Compl. at ¶¶ 6-9.) At relevant times, Holguin was employed by the American Society of Mechanical Engineers (“ASME”). (Compl. at ¶ 6.) ASME established and maintained a plan of long-term disability insurance for the benefit of its employees. (Compl. at ¶ 9.)

3. At relevant times, ASME funded its long-term disability plan via a policy of long-term disability insurance issued by The Standard Life Insurance Company of New York to ASME. (Ex. 1, Group Long Term Disability Insurance Policy (Policy No. 430515-B); Ex. 2, Group Long Term Disability Insurance Certificate and Summary Plan Description (Policy No. 430515-B).)

4. Holguin participated in ASME's long-term disability plan at relevant times. (Compl. at ¶ 9.) He submitted a claim for benefits under the plan. (Compl. at ¶ 9.) Standard denied his claim. (Compl. at ¶ 17.)

5. ERISA provides the plaintiff's exclusive remedy. *See* 29 U.S.C. § 1132(a)(1)(B). ERISA preempts any state law claim that relates to an ERISA-governed benefit plan. *See* 29 U.S.C. § 1144(a); *see also Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 54-57 (1987).

6. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e).

THIS REMOVAL IS TIMELY

7. The plaintiff filed the Complaint in state court on February 12, 2016.

8. The New Mexico State Superintendent of Insurance forwarded a copy of the Summons and Complaint to Standard Insurance Company on February 19, 2016 in accordance with NMSA § 59A-5-31 and 32.

9. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because 30 days have not expired since the Summons and Complaint were served.

STANDARD HAS MET ALL OTHER REQUIREMENTS FOR REMOVAL

10. Standard has satisfied the other requirements for removal under 28 U.S.C. § 1446

and D.N.M. LR-Civ. 81.1.

11. Standard has served a copy of this notice upon the plaintiff.

12. Standard has this date filed a copy of this Notice of Removal with the Clerk of the Second Judicial District Court as required by 28 U.S.C. § 1446(d). *See* Exhibit A.

13. Pursuant to 28 U.S.C. § 1446(a) and D.N.M. LR-Civ 81.1, Standard has attached copies of all pleadings and other documents that were previously filed with the Second Judicial District Court. *See* Exhibit B.

Accordingly, defendant The Standard Life Insurance Company of New York removes the above entitled action from the Second Judicial District Court, Bernalillo County, New Mexico to the United States District Court for the District of New Mexico.

DATED: March 17, 2016

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: /s/ Ryan M. Walters

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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

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